

SECURITIES

CHAPTER 50

REGULATION OF SECURITIES OFFERINGS AND
THOSE WHO ENGAGE IN THE SECURITIES BUSINESS

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[Prior to 10/22/86, Insurance Department[510]]

191—50.1(502) Broker-dealer applications, updates, and renewals.

50.1(1) Broker-dealer applications. Every applicant for an original license to conduct business as a broker-dealer shall file with the administrator:

a. A complete, current Form BD, manually signed and notarized, only if the applicant is not a member of the National Association of Securities Dealers (NASD).

b. The most recent audited financial statement, unless waived by the administrator for good cause. The financial statement shall include a balance sheet, income statement and net capital calculation. The audit shall be performed by an independent certified public accountant according to generally accepted accounting principles. If a waiver is granted, the applicant shall file a financial statement, attested to by the president or financial officer of the broker-dealer, as to its completeness and accuracy.

c. A filing fee of \$200. If the applicant is a member of the National Association of Securities Dealers (NASD), the fee shall be filed with the Central Registration Depository (CRD). If the applicant is not a member of the NASD, the filing fee shall be filed with the administrator.

d. A form known as the Iowa Broker-Dealer Affidavit which may be obtained from the administrator, at the Iowa Securities Bureau, Lucas State Office Building, Second Floor, Des Moines, Iowa 50319. The form requires a manually signed and notarized statement:

(1) That the applicant engaged in no securities transactions with persons in Iowa prior to licensing or identifying past and current Iowa accounts; and

(2) A consent to appointment of the administrator as the applicant's attorney to receive service of any lawful process in a noncriminal proceeding against the applicant, a successor, or personal representative, which grows out of conduct prohibited or made actionable by Iowa Code chapter 502 or any rule or order of the administrator, with the same force and validity as if served personally.

50.1(2) Broker-dealer renewals. Every applicant for renewal of a broker-dealer's license shall submit all of the following by November 30 each year:

a. The applicant's most recent audited financial statements, if not previously submitted to the administrator pursuant to rule 50.6(502).

b. A filing fee of \$200. If the applicant is a member of the National Association of Securities Dealers (NASD), the fee shall be filed with the Central Registration Depository (CRD). If the applicant is not a member of the NASD, the applicant shall file the renewal fee with the administrator. Failure to pay the renewal fee shall be deemed a request for withdrawal of the broker-dealer license and the broker-dealer shall be automatically terminated for failure to renew.

c. If the applicant is not a member of the NASD, an update to the Form BD with the administrator.

50.1(3) Updated filings.

a. If the information contained in an application for original license or renewal becomes inaccurate or incomplete in any material respect, including a change in the name or form of organization of the applicant, a correcting amendment shall be filed within 30 days of the change. Failure to file within 30 days may result in sanctions as authorized by Iowa Code section 502.304.

(1) Members of the National Association of Securities Dealers shall file:

1. In the case of a structural change, i.e., state of incorporation or partnership to corporation, an Iowa Broker-Dealer Affidavit with the administrator. Broker-dealer license fee and fees for all Iowa-licensed agents shall be paid directly to the administrator.

2. In the case of a name change, a new Iowa Broker-Dealer Affidavit with the administrator. No fees are required.

3. Any amendment to Form BD with the Central Registration Depository.

4. Withdrawal requests (Form BDW) with the Central Registration Depository.

(2) Nonmembers of the National Association of Securities Dealers shall file:

1. In the case of a structural change, a new application as set forth in 50.1(1) including the licensing fees for the broker-dealer and all Iowa-licensed agents, with the administrator.

2. In the case of a name change, all amendments to Form BD (specifically including a manually signed page one), an Iowa Broker-Dealer Affidavit, with the administrator.

3. Amendments to Form BD with the administrator.

4. Withdrawal requests with the administrator.

b. Audited financial statements shall be filed within 60 days of the broker-dealer's fiscal year end. The audit shall be performed by an independent certified public accountant according to generally accepted accounting principles. The financial statement shall include a balance sheet, income statement and net capital calculation. Failure to file these statements within 60 days may result in sanctions authorized by Iowa Code section 502.304.

Upon verbal or written request, the most recent unaudited financial statement shall be provided within two business days of the request. Telefaxing or express mail shall be required if necessary to meet the two-business-day limit.

191—50.2(502) Principals. Every broker-dealer registered pursuant to the Iowa Uniform Securities Act (the Act) shall have at least two officers or partners registered as principals, appropriate to the function(s) to be performed, with the National Association of Securities Dealers. The broker-dealer may seek a waiver of this requirement for good cause upon written request to the administrator.

This rule is intended to implement Iowa Code section 502.302.

191—50.3(502) Record-keeping requirements of broker-dealers.

50.3(1) Unless otherwise provided by order of the Securities and Exchange Commission, each broker-dealer registered or required to be registered under Iowa Code chapter 502 shall make, maintain and preserve books and records in compliance with Securities and Exchange Commission rules 17a-3 (17 CFR 240.17a-3(1996)), 17a-4 (17 CFR 240.17a-4 (1996)), 15c2-6 (17 CFR 240.15c2-6 (1996)) and 15c2-11 (17 CFR 240.15c2-11 (1996)), Securities Exchange Act of 1934.

50.3(2) To the extent that the Securities and Exchange Commission promulgates changes to the above-referenced rules, broker-dealers in compliance with such rules as amended shall not be subject to enforcement action by the administrator for violation of this rule to the extent that the violation results solely from the broker-dealer's compliance with the amended rule.

191—50.4(502) Minimum financial requirements and financial reporting requirements of broker-dealers.

50.4(1) Each broker-dealer registered or required to be registered under Iowa Code chapter 502 shall comply with Securities and Exchange Commission rule 15c3-1 (17 CFR 240.15c3-1(1996)), 15c3-2 (17 CFR 240.15c3-2(1996)), and 15c3-3 (17 CFR 240.15c-3(1996)), Securities Exchange Act of 1934.

50.4(2) Each broker-dealer registered or required to be registered under Iowa Code chapter 502 shall comply with Securities and Exchange Commission rule 17a-11 (17 CFR 240.17a-11 (1996)) and shall file with the administrator copies of annual audited financial statements and notices of financial deficiencies, as required under rules 17a-5(d) (17 CFR 240.17a-5(d) (1996)) and 17a-11 (17 CFR 240.17a-11(1996)), Securities Exchange Act of 1934.

50.4(3) To the extent that the Securities and Exchange Commission promulgates changes to the above-referenced rules, broker-dealers in compliance with such rules as amended shall not be subject to enforcement action by the administrator for violation of this rule to the extent that the violation results solely from the broker-dealer's compliance with the amended rule.

191—50.5(502) Net capital. Rescinded IAB 8/13/97, effective 9/17/97.**191—50.6(261) Denial, suspension or revocation of license for failure to pay debts owed to or collected by the college student aid commission.**

50.6(1) Issuance of notice. Upon receipt from the college student aid commission of a certificate of noncompliance for defaults on debts owed to or collected by the commission, the administrator shall issue a notice to a securities agent or investment adviser representative applicant or licensee that the pending application for licensure or current license will be denied, suspended or revoked. The notice shall be served by restricted certified mail, return receipt requested, or by personal service in accordance with the Iowa Rules of Civil Procedure, unless the applicant or licensee accepts service personally or through authorized counsel.

50.6(2) Notice contents. The notice referred to in subrule 50.6(1) shall state all of the following:

- a.* The administrator intends to deny, suspend, or revoke an application or license due to the receipt of a certificate of noncompliance from the college student aid commission.
- b.* The applicant or licensee must contact the college student aid commission to schedule a conference or to otherwise obtain a withdrawal of a certificate of noncompliance.
- c.* Unless the college student aid commission furnishes to the administrator a withdrawal of a certificate of noncompliance within 30 days of issuance of the notice, the application or license shall be denied, revoked or suspended.
- d.* The applicant or licensee served shall not have a right to a hearing before the administrator but may request a court hearing pursuant to Iowa Code section 261.127 within 30 days of the provision of notice.

50.6(3) Automatic stay. The filing of an application for hearing with the district court pursuant to Iowa Code section 261.127 shall automatically stay action of the administrator until the administrator is notified of the resolution of the application.

50.6(4) Effective date of action. If the administrator does not receive a withdrawal of the certificate of noncompliance from the college student aid commission or a notice that an application for district court hearing has been filed, the administrator shall deny, suspend or revoke the application or license 30 days after the notice prescribed in subrule 50.6(2) is issued.

50.6(5) *Withdrawal of certificate.* If the administrator receives a withdrawal of the certificate of noncompliance from the college student aid commission, the administrator shall immediately halt action to deny, suspend or revoke an application or license. The applicant or licensee shall be notified that action has been halted. If an application or license has already been denied, suspended or revoked, the applicant or former licensee shall reapply for licensure and the application shall be granted if the individual is otherwise in compliance with applicable laws, rules, regulations or orders.

50.6(6) *Application fees.* All application fees must be paid by the applicant before a license will be issued, after the administrator has denied, suspended or revoked a license pursuant to Iowa Code sections 261.121 to 261.127.

50.6(7) *Sharing of information.* Notwithstanding any statutory confidentiality provision, the administrator may share information with the college student aid commission for the sole purpose of identifying applicants or licensees subject to enforcement under Iowa Code sections 261.121 to 261.127.

191—50.7(502) Cost of examination.

50.7(1) Whenever the administrator or the administrator's agent makes an examination as provided for in section 303(4) of the Act, the broker-dealer shall pay to the administrator the salaries and the travel, lodging and meal expenses pertaining to such examination as are permitted by the rules of the comptroller's office for state employees.

50.7(2) Within a reasonable time after completion of the examination, the administrator shall notify the subject of the examination of the expenses attributable thereto.

50.7(3) The expenses collected by the administrator pursuant to this rule shall be turned into the state treasury.

191—50.8(502) Registration of agents and issuers.

50.8(1) *NASD member.*

a. An applicant for registration as an Iowa-licensed agent of an NASD member broker-dealer shall:

- (1) Pass one of the following National Association of Securities Dealers (NASD) examinations: Series 1, 2, 6, 7, 11, 17, 22, 24, 26, 39, 40, 52, 53, or 62; and
- (2) Pass the NASD Series 63 or Series 66 examination; and
- (3) File an accurate and complete Form U-4 with the Central Registration Depository (CRD) and pay the required filing fee of \$30 to the NASD.

b. An applicant may file a written request for waiver for good cause of the examination requirement contained in 50.8(1) "a." A waiver will be considered for an applicant with ten years of continuous experience in the securities industry. A waiver of the Series 63 examination will not be granted.

c. An applicant for an agent license under this subrule who has not been continuously licensed with the NASD for the two-year period immediately preceding the filing of the application shall be subject to the examination requirements of this rule.

d. Updates to Form U-4, withdrawal requests, renewals and renewal fees shall be filed with the Central Registration Depository (CRD).

50.8(2) *Non-NASD member.*

a. An applicant for registration as an Iowa-licensed agent of an issuer or other non-NASD member must file with the administrator:

(1) Proof of attaining a passing grade on one of the following NASD examinations: Series 1, 2, 6, 7, 11, 17, 22, 24, 26, 39, 40, 52, 53, or 62; and

(2) Proof of attaining a passing grade on the NASD Series 63 or Series 66 examination; and

(3) An accurate and complete Form U-4 and \$30 filing fee.

b. An applicant may file a written request for waiver of the examination requirements. The examination requirements may be waived upon written application to the administrator for good cause shown.

c. Updates to Form U-4, withdrawal requests and renewal documents and fees shall be filed directly with the administrator.

50.8(3) *Incomplete applications.* No application for a license to act as an agent shall be considered for approval until it is complete.

a. No application for an agent license with an NASD member broker-dealer shall be considered complete until all requirements of 50.8(1)“a” are satisfied.

b. No application for an agent license with an issuer or other non-NASD member shall be considered complete until all requirements of 50.8(2)“a” are satisfied.

c. In the discretion of the administrator, an applicant may be required to provide additional information regarding any aspect of the application. The application shall be incomplete until such requests are satisfied.

50.8(4) *Employment of agents of an issuer.* An issuer who desires to employ persons as agents of issuers within the meaning of section 502.102(3) of the Act must apply to the administrator for such authority. The application shall be made by letter and shall include:

a. A statement of the issuer’s intent to employ agents for the sale of its securities,

b. Name, address, social security number and proof of satisfaction of 50.8(2)“a” for each agent, and

c. A complete description of the subject securities.

This rule is intended to implement Iowa Code section 502.302.

191—50.9(502) Dishonest or unethical practices in the securities business.

50.9(1) These acts and practices, including but not limited to the following, are deemed dishonest or unethical practices in the securities business by any person, other than an agent, under Iowa Code section 502.304(1)“g.”

a. Engaging in any unreasonable and unjustifiable delay in the delivery of securities purchased by any of its customers or in the payment upon request of free credit balances reflecting completed transactions of any of its customers;

b. Inducing trading in a customer’s account which is excessive in size or frequency in view of the financial resources and character of the account;